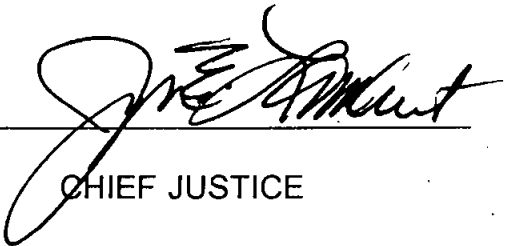


Supreme Court of Kentucky

**IN RE: Order Approving Amendments to the Rules of the 28th
 Judicial Circuit, Lincoln, Pulaski, and Rockcastle Counties**

The amendments to the Rules of the 28th Judicial Circuit, Lincoln,
Pulaski, and Rockcastle Counties, are hereby approved.

ENTERED: March 9, 2001.



CHIEF JUSTICE

RULES OF THE
28TH JUDICIAL CIRCUIT

LINCOLN CIRCUIT COURT
PULASKI CIRCUIT COURT
ROCKCASTLE CIRCUIT COURT

DIVISION I

Judge - Daniel J. Venters, Chief Judge

Secretary - Shirley Whitson

Phone - (606) 677-4091

Fax - (606) 677-4151

Mailing Address - Post Office Box 1324
Somerset, Kentucky 42502

DIVISION II

Judge - William T. Cain

Secretary - Shan Swanner

Phone - (606) 677-4098

Fax - (606) 677-4151

Mailing Address - Post Office Box 1324
Somerset, Kentucky 42502

FAMILY COURT

Judge - Debra Hembree Lambert

Secretary - June Coleman

Phone - (606) 677-4186

Fax - (606) 676-4189

Mailing Address 203 E. Mt. Vernon, Suite B
Somerset, Ky. 42501

Law Clerk - Sarah Amburgey

Court Reporters:

Pulaski Circuit Court - Joyce Hudson Combs
137 Crawford Street
Somerset, Kentucky 42501
(606) 679-5994

Lincoln Circuit Court - Jenny Lynn Whitaker
Rockcastle Circuit Court - 117 Bettis Lane
Lancaster, Kentucky 40444
(606) 792-4134 (home)
(606) 792-4138 (work)

Pulaski Circuit Master Commissioner and Domestic Relations
Commissioner:

Hon. John T. Mandt
Post Office Box 25
Somerset, Kentucky 42502
Phone - (606) 679-3504

Lincoln Circuit Master Commissioner and Domestic Relations
Commissioner:

Hon. James W. Williams, III
Post Office Box 474
Stanford, Kentucky 40484
Phone - (606) 365-2301

Rockcastle Circuit Master Commissioner:

Hon. Willis Coffey
Post Office Box 247
Mt. Vernon, Kentucky 40456
Phone - (606) 256-4405

There is no Domestic Relations Commissioner for Rockcastle Circuit Court.

- I. Trial Sessions: Bench trials and jury trials may be scheduled at any time. For administrative convenience, jury trial sessions are as follows and jury trials will be scheduled accordingly except in extreme circumstances.

JURY TRIAL SESSIONS

PULASKI

Division I	JANUARY	3 weeks beginning first Monday*
	APRIL	3 weeks beginning first Monday
	JULY	3 weeks beginning first Monday
	OCTOBER	3 weeks beginning first Monday

Division II	FEBRUARY	3 weeks beginning first Monday*
	MAY	3 weeks beginning first Monday
	AUGUST	3 weeks beginning first Monday
	NOVEMBER	3 weeks beginning first Monday

ROCKCASTLE

Division I	FEBRUARY	2 weeks beginning first Monday*
	MAY	2 weeks beginning first Monday
	AUGUST	2 weeks beginning first Monday
	NOVEMBER	2 weeks beginning first Monday

Division II	JANUARY	2 weeks beginning first Monday*
	APRIL	2 weeks beginning first Monday
	JULY	2 weeks beginning first Monday
	OCTOBER	2 weeks beginning first Monday

LINCOLN

Division I	FEBRUARY	2 weeks beginning third Monday*
	MAY	2 weeks beginning third Monday
	AUGUST	2 weeks beginning third Monday
	NOVEMBER	2 weeks beginning third Monday

Division II	JANUARY	2 weeks beginning third Monday*
	APRIL	2 weeks beginning third Monday
	JULY	2 weeks beginning third Monday
	OCTOBER	2 weeks beginning third Monday

*NOTE: When the first or third Monday falls upon a legal holiday recognized by the Court of Justice, the jury session will begin on the following Tuesday.

II. MOTIONS

- A. Notice of motions shall be served at least five (5) days prior to the noticed hearing date. A copy of each motion shall also be served upon the circuit judge at least five (5) days prior to the noticed hearing date.
- B. Motions to assign a case for trial or for a pre-trial conference need not be noticed for a hearing date. Upon receipt of the motion, the Court will contact counsel by telephone to ascertain any objection to the motion to set a trial or pre-trial conference date.
- C. Civil motions, except in matters of extreme urgency, shall be set for hearing as follows:
 1. Pulaski Circuit Court
 - a) Division I
The first and third Friday of each month at 9:00 A.M., or at 1:00 P.M.

- b) Division II
The first and third Friday of each month at 10:30 A.M., or at 2:00 P.M.

2. Lincoln Circuit Court

- a) Division I
The second Friday of each month at 9:00 A.M.
- b) Division II
The fourth Friday of each month at 9:00 A.M.

3. Rockcastle Circuit Court

- a) Division I
The fourth Friday of each month at 9:00 A.M.
- b) Division II
The second Friday of each month at 9:00 A.M.

D. Criminal motions, except in matters of extreme urgency, shall be set for hearing as follows:

1. Pulaski Circuit Court

- a) Division I - The fourth Thursday of each month at 9:00 A.M.
- b) Division II - The third Thursday of each month at 9:00 A.M.

2. Lincoln Circuit Court

- a) Division I - The second Friday of each month at 10:30 A.M.
- b) Division II - The fourth Friday of each month at 10:30 A.M.

3. Rockcastle Circuit Court

a) Division I - The fourth Friday of each month at 10:30 A.M.

b) Division II - The second Friday of each month at 10:30 A.M.

E. Matters of extreme urgency will be set by the judge for hearings at any appropriate time. Counsel must arrange a hearing date.

F. All motions, except for trial or pre-trial conference dates, shall include a statement of the grounds for the motion and the legal authority relied upon in support of the motion.

Motions for summary judgment shall specifically state the material fact(s) as to which the movant contends there is no genuine issue. The Court may, prior to the hearing date, order the filing of a written response to the motion and take the motion under submission for a ruling without a hearing.

III. DOMESTIC RELATIONS CASES:

A. Actions for Dissolution of Marriage, Child Custody, and Support

1. Proof in actions for dissolution of marriage, contested and uncontested, shall be by deposition. When child custody is in dispute the Court will personally hear the testimony of the parties regarding child custody. The Circuit Judge will hear (or read) the evidence in dissolution actions and render the findings of fact, conclusions of law, and decree, except on occasions when the convenience of the parties, or the Court requires the assignment of the case to a Domestic Relations Commissioner.

2. After completing the taking of proof, either party may move the Court for an order of submission. The motion shall state whether or not the action is contested and, if contested, the specific issues in controversy. Prior to the submission of the case, the parties shall submit a trial brief stating what issues are contested and stating what award or relief is sought on the contested issues.

B. Matters to be Heard by the Domestic Relations Commissioner:

1. The Domestic Relations Commissioner will preside over hearings on motions for temporary child support, temporary child custody or visitation, temporary maintenance, temporary assignments of possession of material property, or other pendente lite relief except motions for restraining orders or injunctive relief and objections to jurisdiction or venue.
2. The Domestic Relations Commissioner will preside over hearings on post-judgment motions in domestic relations matters to enforce or modify a final decree of child support, custody, or visitation, and maintenance or disposition of marital property and contempt motions. The Domestic Relations Commissioner may make findings and recommendations on contempt charges, however, no incarceration shall be imposed except according to Civil Rule 53.03(3).
3. Petitions for adoption or termination of parental rights will not be referred to the Domestic Relations Commissioners.
4. Fees of the Domestic Relations Commissioner

Fees of the Domestic Relations Commissioner shall be assessed according to Part IV of the Administrative procedure of the Court of Justice, Section 4, of which provides:

For any hearing the commissioner shall receive a fee of \$40.00 per hour, assessed at a rate of \$10.00 for each quarter hour or part thereof. Such fees shall be paid through the office of the Circuit Court Clerk to the Commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than \$600.00 shall be assessed in any case regardless of the number and length of hearings, except that if a case is reopened additional fees totalling not more than \$200.00 may be assessed. No more than \$15.00 shall be assessed in any uncontested divorce.

5. Payment of fees and Scheduling of Hearings

- a) In Pulaski Circuit Court, at the conclusion of each hearing, the Commissioner shall advise the parties of the amount of the hearing fee. Such fee shall be paid through the office of the Pulaski Circuit Court Clerk not later than the fifth working day following the conclusion of the hearing. Counsel shall notify the Domestic Relations Commissioner of the payment of said fee.

Prior to the filing of a motion to be heard by the Domestic Relations Commissioner, counsel for the moving party shall contact the Domestic Relations Commissioner to schedule a time for hearing of the motion. Counsel shall inform the Domestic Relations Commissioner of the anticipated length of the hearing. The time, date and place of the hearing shall be included in the notice served upon the opposing party. The Domestic Relations Commissioner shall schedule the hearing as soon as practicable but not later than two weeks after the filing of the motion, unless the parties agree to a later hearing and the urgency of the matter is not great.

- b) In the Lincoln Circuit Court, the party filing the motion shall remit to the Clerk a payment of \$20.00 toward the Domestic Relations Commissioner's fee. Additional fees will be assessed if the duration of the hearing exceeds one-half hour. If the matter is resolved without a hearing, the pre-paid fee shall be refunded. In no event shall the fee exceed the amount allowable by the Civil Rules and Rules of the Kentucky Supreme Court.

The motions for hearing before the Domestic Relations Commissioner in the Lincoln Circuit Court shall be set as follows:

Division I - Tuesday, ten days prior to the second Friday of each month;

Division II - Tuesday, ten days prior to the fourth Friday of each month.

When counsel expects that a hearing will exceed one hour in duration, the Domestic Relations Commissioner shall be notified so that a special hearing time can be arranged.

- c) In Rockcastle Circuit Court, domestic relations cases shall be filed as any other civil motion.

6. The Domestic Relations Commissioner shall file a report and recommendation not later than 14 days following the hearing and the submission of all evidence and briefs.

If the matter to be heard is resolved prior to the time fixed for the hearing, the Domestic Relations Commissioner shall be notified immediately so that the time reserved for the hearing will be available to other litigants.

7. The Domestic Relations Commissioner shall provide for the recording of all hearings and may order the presentation of testimony, in whole or in part, to be by deposition or interrogatories.
8. Every party moving for temporary child support shall include a completed child support worksheet, consistent with the child support guidelines, and affidavits to support the data on same.
9. If the Domestic Relations Commissioner is disqualified to act in a particular case for any reason, the Court may hear the matter or appoint a special commissioner, qualified according to Civil Rule 53.03(2).
10. Typographical errors or ambiguities, or inadvertent omissions in the report of the Domestic Relations Commissioner should be brought to the attention of the Domestic Relations Commissioner prior to the filing of exceptions.

C. Visitation

The following visitation schedule is provided as a guide to what the Court considers to be standard reasonable visitation for parents who are not the primary residential custodian. It should be considered as a standard form from which to deviate. deviate only when specific circumstances peculiar to the case render it inappropriate.

1. Every other weekend from 6:00 P.M. Friday, until 6:00 P.M. Sunday.
2. One evening each week from 6:00 P.M. to 8:00 A.M. the next morning. The child shall be returned to the other parent, or taken directly to school if school is in session. This shall be Wednesday evening unless the

parties agree upon another day.

3. Five weeks each summer beginning June 15 with third weekend (6:00 P.M. Friday to 6:00 P.M. Sunday) visitation back to the primary resident parent.
4. Alternate children's birthdays - odd numbered years with the father and even numbered years with the mother.
5. Beginning 6:00 P.M., the day school ends for the Christmas holiday until 12:00 noon on December 25 every even numbered years, and from 12:00 noon on December 25 until 6:00 P.M., the day before school begins after the holiday every odd numbered year for the non-residential parent and the opposite for the residential parent. This has priority over any other visitation schedule.
6. Beginning 6:00 P.M., the day school gets out for the Thanksgiving holiday until 6:00 P.M. the day before school begins after the holiday every odd numbered year for the non-residential parent and the opposite schedule for the residential parent. This has priority over any other visitation schedule.
7. Memorial Day and Labor Day are celebrated on Mondays. Whoever has the children in their possession for that weekend shall keep the children for that holiday on Monday.
8. The children's spring school break every even year from 6:00 P.M. the day school ends for the break until 6:00 P.M. the day before school end after the break. The residential parent shall have the children during the entire spring break every odd numbered year with priority over any other visitation schedule.
9. Mother's Day each year with the mother and Father's Day with the father from 9:00 A.M. to

6:00 P.M. with priority over any other visitation schedule.

10. The mother's birthday each year with the mother and the father's birthday each year with the father with priority over any other visitation schedule.
11. The parent receiving visitation privileges shall notify the other parent of their intent to not exercise visitation 48 hours in advance of any visitation. Unless notified, the residential parent shall resume the visiting parent will exercise visitation in a timely manner.
12. The residence of the children shall not be removed from the Commonwealth of Kentucky without first obtaining a modified visitation order from the Court.

The parties may alter or amend this visitation schedule by mutual agreement. Unless agreed to, however, by the parties or otherwise ordered by the Court, this visitation schedule shall be followed by both parents.

D. Parental Conduct -

Each parent is specifically ORDERED to obey the following rules for parental conduct. Each parent is under an affirmative duty to foster the love and affection of the child for the other parent, and neither parent shall:

1. Do nor say anything that will interfere with the love and affection of the child for the other parent.
2. Allow third parties to do or say anything to or in the presence of the child that will interfere with the love and affection of the child for the other parent.
3. Have the child deliver money or messages from

one parent to the other and thus place the child in the middle.

4. Ask the child to keep a secret from the other parent and, in effect, teach the child to lie.
5. Quiz the child about what is going on at the other parent's home and thus turn the child into a spy.
6. Say unkind things about the other parent to the child or in the presence of the child.
7. Try to conduct parental business when exchanging the child for visitation.
8. Make any threats or start arguments with the other parent when exchanging the child for visitation.
9. Ask a child directly or subtly, "Which of us do you really want to be with," and thus place the burden on the child.
10. Allow a child to take control of visitation whenever he or she wants to do so.
11. Have the child refer to a future stepparent as "mother" or "father".
12. Eavesdrop on or interrupt the child's telephone conversations with the other parent.

Violation of these rules may effect or limit a parent's right to visitation or custody.

PROTOCOL FOR DOMESTIC VIOLENCE CASES FOR THE
DISTRICT AND CIRCUIT COURTS OF LINCOLN, PULASKI
AND ROCKCASTLE COUNTIES

I. TWENTY-FOUR HOUR AVAILABILITY

A. Pursuant to the provisions of KRS 403.715 et seq, the Circuit and District Courts of Lincoln, Pulaski and Rockcastle Counties set up the following procedures to provide twenty-four hour accessibility to emergency protective orders.

B. After regular office hours, on weekends or holidays, or at any other time that the office of the Circuit Court Clerk is closed, the following persons are authorized to provide domestic violence petitions to any person seeking same, and are authorized to verify said domestic violence petition for persons seeking same:

The Circuit Clerks of Pulaski, Lincoln, and Rockcastle Counties, and all of their sworn deputies;

The Sheriffs of Pulaski, Lincoln and Rockcastle Counties and all other sworn deputies and dispatchers;

The Jailers of Pulaski, Lincoln, and Rockcastle Counties, and all of their sworn deputies;

The County Attorneys of Pulaski, Lincoln, and Rockcastle Counties, and any Assistant County Attorneys or office staff employees;

The Chief of Police for the cities of Somerset, Mt. Vernon, Stanford, and any other incorporated city in Pulaski, Lincoln, or Rockcastle Counties, and all sworn officers and dispatchers within their departments;

Any Kentucky State Police officer assigned to Pulaski, Lincoln or Rockcastle Counties;

- C. Any of the authorized persons listed above who are in receipt of a domestic violence petition are authorized to administer an oath to the petitioner, witness the signing of the petition by the petitioner, and affix his or her signature and office held to said petition in witness and in verification of the petitioner's oath.
- D. The sworn domestic violence petition shall then be immediately presented, by the person verifying same, or by any peace officer within the county, to the appropriate judicial officer as set forth below in Sections III and IV.
- E. In the event that no judge or trial commissioner can be found within the county, the said petition may be presented to any district judge, district court trial commissioner, or circuit judge in any surrounding county who may issue the domestic violence emergency protective order in his or her discretion.

II. DOMESTIC VIOLENCE PROTOCOL

- A. A purpose of this protocol is to guide the Circuit Court Clerks of Pulaski, Lincoln and Rockcastle Counties in the assignment of domestic violence cases to the appropriate judge. This protocol establishes the order in which judges should be sought for consideration of domestic violence petitions. It should be remembered, however, that any circuit or district judge has the authority to issue emergency protective orders or other domestic violence orders on an emergency basis in any case arising within his or her circuit or district.
- B. All domestic violence petitions shall be assigned a domestic violence "D" case number with the appropriate trailer number, if any, regardless of who (district judge, circuit judge, or trial commissioner) reviews the petition and orders the case filed.
 - 1. This procedure shall apply to petitions filed during the pendency of a dissolution or child custody

proceeding.

2. If a verified motion for an emergency protective order or a domestic violence order is filed in a dissolution or child custody proceeding, the motion must be filed on AOC form 275.1, as a petition, pursuant to KRS 403.720(2), and it shall be assigned a domestic violence "D" case number with the appropriate trailer number regardless of the fact that it was filed as a motion in the Circuit Court dissolution or child custody case.

3. The judge number of the judge reviewing the petition and ordering the case filed shall be entered on the case screen as the opening judge.

4. Responsibility for LINK entry shall lie with the deputy clerk in district court regularly assigned this responsibility during the regular office hours of the applicable circuit court clerk; and shall lie with the dispatcher of the applicable police department or sheriff's office at other times. A copy of all Emergency Protective Orders issued during non-office hours shall be made available or delivered to the appropriate clerk's office at the beginning of the next regular office day.

III.. PROCEDURE FOR DOMESTIC VIOLENCE PETITIONS FILED
DURING REGULAR OFFICE HOURS:

A. At the time a domestic violence "D" case is opened, the deputy clerk will check the index of the circuit court cases to ascertain if a dissolution or child custody case is pending. Note: "Pending" means that no final decree has been entered. If a final decree was entered, the case is not "pending."

B. WHEN A DISSOLUTION OR CUSTODY CASE IS PENDING IN
CIRCUIT COURT:

1. If the parties identified in a domestic violence petition have a case pending in the circuit court

involving the dissolution of their marriage or custody of their children, the circuit clerk shall cause the appropriate documents to be delivered to the circuit judge in whose division the case is pending. If that circuit judge is unavailable, the clerk shall seek the consideration of the matter by any of the following judicial officers, in the order listed: First, if the circuit judge in whose division the case is pending is unavailable, the clerk should seek the consideration of the other circuit judge; second, if the other circuit judge is also unavailable, the clerk should seek the consideration of a district judge; third, if no circuit judge or district judge is available, the circuit clerk shall seek consideration of the matter by a district court trial commissioner, if such a commissioner is serving in the particular county. Finally, if none of the foregoing can be located, the clerk shall seek consideration of any circuit or district judge in any surrounding county.

2. If an EPO is issued, the clerk shall file the petition as a domestic violence "D" case and schedule a domestic violence hearing in circuit court in accordance with the schedule set forth below in Section V.

3. The clerk shall cross-reference the newly filed "D" case with the dissolution or child custody case. Additionally, if a domestic violence order is issued, upon entry the clerk shall place a copy of the EPO/DVO in the pending circuit court case file. The individual clerk (or deputy clerk) handling the petition shall also deliver a copy of the EPO/DVO for LINK entry to the deputy clerk charged with that responsibility.

C. WHEN NO DISSOLUTION OR CUSTODY CASE IS PENDING IN CIRCUIT COURT:

1. If the parties to a domestic violence matter are not involved in a pending circuit court action for dissolution of marriage or child custody, the clerk shall deliver the petition to a district judge or district court trial commissioner. If neither are

available, the clerk shall cause the petition to be delivered for consideration to any circuit judge. If an EPO is issued, the clerk shall file the petition as a domestic violence "D" case, and schedule a domestic violence hearing in the district court, in accordance with the schedule set forth below. If there is pending in one division of the district court a case involving the same parties, the clerk should assign the new petition to the judge of that division.

IV. PROCEDURE OUTSIDE CIRCUIT CLERK'S REGULAR OFFICE HOURS, INCLUDING NIGHTS AND WEEKENDS:

- A. Police agencies or other offices handling a petition for an Emergency Protective Order or Domestic Violence Order after business hours without the assistance of the circuit clerk or deputy clerk shall contact for consideration of the Petition:

1. If it can be determined that a dissolution action or child custody action is pending within the county in circuit court, the circuit judge presiding over the pending case. If that judge is unavailable, then to the other circuit judge or a district judge, or district court trial commissioner, in that order;

2. otherwise, to the district judge. If the district judge is unavailable, then to a district court trial commissioner, if any, or to a circuit judge, in that order.

- B. Upon receipt by the clerk of a verified domestic violence petition taken after regular business hours, including nights and weekends, and a domestic violence hearing has already been scheduled with the district judge, the deputy clerk shall check the index of circuit court cases to ascertain if a dissolution or child custody case is pending.

1. If it is determined that no dissolution or child custody case is pending, the clerk shall file the petition (and the protective order issued, if any) as a

domestic violence "D" case in the district court, regardless of which district judge, trial commissioner or circuit judge ordered that the petition be filed. The clerk shall calendar the hearing by completing a scheduled event screen in SUSTAIN.

V. HEARING SCHEDULE:

- A. Domestic violence matters which, according to the rules set forth above, are to be heard in the district court shall be scheduled for a hearing within fourteen days. The domestic violence sessions of the district court are as follows:

- 1) Lincoln District Court each Monday at 1:00 P.M.
- 2) Rockcastle District Court each Tuesday at 9:30 A.M.
- 3) Pulaski District Court each Tuesday at 1:30 P.M.

- B. Domestic violence matters which, according to the above rules, are to be heard in the circuit court shall be set for hearing on the next circuit court motion day, regardless of the circuit court division in which the case is pending.

If the initial domestic violence petition is considered by a circuit judge, and there is no motion day of the circuit court within fourteen (14) days, that circuit judge shall set a date and time for a hearing within 14 days.

If, because of the unavailability of a circuit judge, the initial domestic violence petition is considered by a district judge or a district judge trial commissioner, and there is no circuit court motion day within 14 days of the initial domestic violence motion or petition, the matter shall be set for hearing on a district court domestic violence session to be held within 14 days. At the hearing on such a matter the district court judge may in his or her discretion enter any orders for temporary child custody, temporary child support, temporary child visitation, or such protective orders and process as are deemed necessary and appropriate under the circumstances.

C. Circuit court motion days are as follows:

- 1) Pulaski Circuit Court, Division I, first and third Fridays at 9:00 A.M. and 1:00 P.M. Pulaski Circuit Court, Division II, first and third Fridays at 10:30 A.M. and 1:30 P.M.
- 2) Lincoln Circuit Court, Division I, second Friday of each month at 9:00 A.M. Lincoln Circuit Court, Division II, fourth Friday of each month at 9:00 A.M.
- 3) Rockcastle Circuit Court, Division I, fourth Friday of each month at 9:00 A.M. Rockcastle Circuit Court, Division II, second Friday of each month at 9:00 A.M.

VI. CIRCUIT COURT PROCEEDINGS COMMENCING DURING PENDENCY OF DISTRICT DVO MATTER:

If while a domestic violence matter is pending in the district court, a dissolution proceeding or a child custody matter is filed in the circuit court involving the same parties, the presiding district judge may in his or her discretion enter or continue such protective orders and temporary measures as are deemed necessary and appropriate under the circumstances. Thereafter, the matter shall be reassigned to the circuit court for consideration along with the pending circuit court action.

VII. CASES PENDING CONCURRENTLY IN TWO COUNTIES:

When, during the pendency of a domestic violence matter, it is discovered that a dissolution or child custody proceeding is pending in the circuit court of another county within the Commonwealth of Kentucky, the judge presiding over the domestic violence matter shall determine whether to retain the case or to transfer it to the county where the dissolution/child custody case is pending. If the dissolution/child custody case commenced in circuit court prior to the issuance of the domestic violence order, the case shall be transferred to the dissolution/child custody action. Otherwise, the judge presiding over the domestic violence matter shall correspond with the judge presiding over the dissolution/child custody action for a

consultation on whether, under the circumstances particular to that case, the domestic violence should be merged with the pending circuit court action in the other county.

VIII. CONTEMPT PROCEEDINGS:

If no circuit court or child custody case is pending when the contempt order is sought, then the judge which issued the EPO or DVO should conduct any contempt proceeding arising therefrom. If there is a dissolution or child custody action pending in circuit court when the contempt order is sought, the circuit judge presiding over the case should conduct the contempt proceeding.

IX. MOTIONS TO AMEND DOMESTIC VIOLENCE ORDERS:

Motions to amend a domestic violence order shall be submitted to the judge which issued same, unless there is currently pending an action in circuit court for dissolution or child custody. In that event, the judge presiding over the dissolution/child custody case shall consider any motions to amend the domestic violence order.

X. CRIMINAL CHARGES:

Pursuant to KRS 403.760, a peace officer having probable cause to believe that a violation of an EPO or DVO has occurred shall arrest the alleged violator; and, the Commonwealth of Kentucky can prosecute for the violation of a EPO or DVO. Jurisdiction for the criminal offense of violating an EPO or DVO lies in the district court, even if the order was issued or modified by the circuit court. Civil proceedings for the violation of an EPO or DVO and criminal proceedings for the same violation are mutually exclusive. KRS 403.760(5) provides that once either proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding. If an alleged violation of an EPO or DVO is commenced as a criminal misdemeanor action, no civil contempt proceeding can ensue. If an alleged violation of an EPO or DVO is commenced as a civil contempt proceeding, no subsequent misdemeanor charge can be brought arising from the same violation.